

REMARKS

Claims 11-18 are currently pending in the present Application. Claims 1-10 were previously withdrawn due to a Restriction Requirement. By this Amendment, new claims 19-26 have been added, and no claims have been cancelled. Thus, claims 11-26 are currently at issue.

I. Double Patenting Rejections

In the Office Action, claims 11-18 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-70 of U.S. Patent No. 6,957,513. Applicants believe that claims 11-18 are patentably distinct from the claims of U.S. Patent No. 6,957,513. However, in the interests of furthering prosecution, Applicants have submitted herewith a Terminal Disclaimer and the fee associated therewith. Accordingly, Applicants respectfully submit that these rejections have been addressed.

II. Rejections Under 35 U.S.C. § 102/103

In the Office Action, claims 11-18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,992,907 to Sheldon *et al.* (“Sheldon”) in view of U.S. Patent No. 4,229,096 to Bujese *et al.* (“Bujese”). Applicants note that the Office Action is confusing, and indicates in different places that the claims are rejected under §103(a) and §102(b). Applicants have treated the rejections as being under §103(a) due to the citation of multiple references. Applicants respectfully traverse the Examiner’s rejections.

A. Claims 11-15 and 19

Claim 11 includes, among other elements, “a tilt latch mechanism operably connected to the rotor,” and, “an actuator ... having a locked position wherein the locking end of the rotor is adapted to engage the master frame, the actuator being moveable to an unlocked position wherein the rotor is adapted to be disengaged from the master frame, and being further moveable to a tiltable position wherein the latch bolt is retracted and is adapted to be disengaged from the master frame.” Sheldon does not disclose, teach, or suggest the above elements of claim 11. More specifically, Sheldon does not disclose any operable connection between the rotor (36) and

the latch bolt (22). Sheldon discloses two separate mechanisms for the sash locking operation and the retraction of the latch bolts. The sash locking operation is performed by the locking handle (34) and the cam (36). (Sheldon, Col. 4, Lns. 22-31). The retraction of the latch bolts (22) is performed by a tilt latch actuator (50), which includes a shaft portion (54) and a separate handle (52) for operation of the actuator (50). (Sheldon, Col. 4, Lns. 44-60). Sheldon discloses no operable connection between the sash lock handle and rotor (34, 36) and the tilt latch actuator (50). Thus, Sheldon does not disclose that the latch bolt (22) is “operably connected to the rotor,” and also does not disclose any actuator that has a locked position, an unlocked position, and a tiltable position. Accordingly, Sheldon does not disclose at least these elements of claim 11.

Bujese also does not disclose these elements of claim 11. Bujese is directed toward a start mechanism for an electrostatic copier and contains no window-related elements whatsoever. Accordingly, the cited references, either alone or in combination, fail to disclose, teach, or suggest all the elements of claim 11. Thus, no prima facie case of obviousness has been established.

Claims 12-15 include all the elements of claim 11, and thus, for the same reasons, no prima facie case of obviousness has been established with respect to claims 12-15.

B. Claims 16-18 and 20

Claim 16 includes, among other elements, “a tilt latch mechanism operably connected to the rotor,” and, “the handle having a locked position wherein the locking end of the rotor is adapted to engage the master frame, the handle being moveable to an unlocked position wherein the rotor is disengaged from the master frame, and being further moveable to a tiltable position wherein the latch bolt is retracted and adapted to be disengaged from the master frame.” As similarly described above with respect to claim 11, the mechanism of Sheldon contains separate tilt latch and sash lock mechanisms, and Sheldon does not disclose one handle that is moveable among all three of locked, unlocked, and tiltable positions. Accordingly, Sheldon does not disclose, teach, or suggest at least this element of claim 16. As also described above, Bujese

does not disclose, teach, or suggest this element of claim 16. Thus, no prima facie case of obviousness has been established with respect to claim 16.

Claim 16 also includes, among other elements, “the handle further having a first indicia ... the escutcheon having a base indicia wherein the first indicia and the base indicia cooperate to indicate to a user that the handle is in one of the locked position, the unlocked position and the tiltable position.” The Office Action concedes that Sheldon does not disclose this element of claim 16. Bujese also does not disclose this element of claim 16. At most, Bujese discloses indicia on only one element, and does not disclose cooperative indicia on two different elements. Applicants note that the Office Action does not clearly point out the disclosure of claimed features in Bujese, and does not even attempt to assert that Bujese discloses such cooperative indicia. Accordingly, for this additional reason, no prima facie case of obviousness has been established with respect to claim 16.

Claims 17-18 include all the elements of claim 16, and thus, for the same reasons, no prima facie case of obviousness has been established with respect to claims 17-18.

C. Bujese is Not Analogous Art

As an additional matter, Bujese is non-analogous art and cannot properly be used to reject Applicants’ claims. A prior art reference is analogous if the reference is in the field of applicant’s endeavor or, if not, the reference is reasonably pertinent to the particular problem with which the invention was concerned. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). Bujese is clearly not in the field of Applicants’ endeavor. Additionally, Bujese is not pertinent to the problem with which the present invention is concerned. More specifically, one problem which the claimed invention addresses is indicating various positions of the handle in an integrated tilt/sash lock mechanism, which may not be located at regular or otherwise defined intervals in the range of rotation of the handle. In contrast, the dials (52, 56) of Bujese are intended to show how many copies will be made by the copier and to indicate the current contrast level. (Bujese, Col. 4, Lns. 30-40). The fact that these dials indicate the physical position of the relative knobs is only incidental to the primary purpose. Thus, one skilled in the art of windows and window locking mechanisms would not look to Bujese for new features to

incorporate in a design for an integrated tilt/sash lock mechanism, and Bujese cannot form a proper prima facie case of obviousness with respect to the present claims.

III. New Claims

New claim 19 also includes all the elements of claim 11, and thus, for the same reasons, new claim 19 is patentable over the cited references.

New claim 20 also includes all the elements of claim 16, and thus, for the same reasons, new claim 20 is patentable over the cited references.

New claim 21 contains, among other elements, “when the window is moved from the first position to the second position when the actuator is in the locked position, the beveled surface engages the rotor and forces the rotor to rotate into the housing, causing the actuator to move toward the unlocked position.” Neither Sheldon nor Bujese discloses, teaches, or suggests at least this element of claim 21. Thus, for at least this reason, new claim 21 is patentable over the cited references, as well as new dependent claims 22-23.

New claim 24 contains, among other elements, “when the window is moved from the first position to the second position when the actuator is in the locked position, the beveled surface engages the rotor and forces the rotor to rotate away from the keeper, causing the actuator to move toward the unlocked position.” Neither Sheldon nor Bujese discloses, teaches, or suggests at least this element of claim 24. Thus, for at least this reason, new claim 24 is patentable over the cited references, as well as new dependent claims 25-26.

CONCLUSION

For the foregoing reasons, Applicants respectfully request reconsideration and withdrawal of the present rejections and allowance of claims 11-18 in the present Application. Applicants also request examination and allowance of new claims 19-26. Applicants submit that the Application is in condition for allowance and respectfully request an early notice of the same. The Examiner is invited to contact the undersigned, if it would expedite prosecution of the present Application.

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Respectfully submitted,

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